

## DENTAL BOARD[650]

### Notice of Intended Action

#### **Proposing rule making related to practice of dental licensees and registrants and providing an opportunity for public comment**

The Dental Board hereby proposes to amend Chapter 10, “General Requirements,” and Chapter 16, “Prescribing, Administering, and Dispensing Drugs,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 147.76 and 153.33.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 147.9, 153.15, 153.16, 153.17, 153.33, 153.33A and 153.34.

#### *Purpose and Summary*

The purpose of the proposed amendments is to eliminate the prohibition against ownership of a dental practice by a dental hygienist, update protocols for a licensed dental hygienist to work in a public health setting, clarify the use of silver diamine fluoride, and implement clearer requirements for reporting changes of name and address.

The proposed amendments remove the restriction against ownership of a dental practice by a dental hygienist. The amendments focus on the level of supervision under which a dental hygienist must work, rather than ownership of a dental practice.

The proposed amendments reduce the number of years of clinical experience required for a licensed dental hygienist to work in a public health setting. Current rules allow a dental hygienist to work under public health supervision after having completed three years of clinical practice. The amendments reduce this requirement to one year, which is consistent with the requirement for registered dental assistants.

The proposed amendments permit licensed dental hygienists to use silver diamine fluoride in a public health setting and set forth parameters for its use.

The proposed amendments clarify the situations wherein a licensee or registrant would be required to submit a change of address to the Board.

#### *Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

#### *Jobs Impact*

After analysis and review of this rule making, there is a positive impact on jobs for dental hygienists who wish to work in a public health setting because hygienists will be able to do so with fewer years of experience. Public health settings have sometimes had difficulty finding qualified candidates. The new requirements will allow more dental hygienists to qualify for work in this setting.

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 650—Chapter 7.

### *Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on July 13, 2018. Comments should be directed to:

Phil McCollum  
Dental Board  
400 S.W. Eighth Street, Suite D  
Des Moines, Iowa 50309  
Email: [phil.mccollum@iowa.gov](mailto:phil.mccollum@iowa.gov)

### *Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

July 13, 2018	Board Office, Suite D
2 p.m.	400 S.W. Eighth Street
	Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

### *Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 650—10.4(153) as follows:

**650—10.4(153) Unauthorized practice of a dental hygienist.** A dental hygienist ~~who assists a dentist in practicing dentistry in any capacity other than as an employee or independent contractor supervised by a licensed dentist or who directly or indirectly procures a licensed dentist to act as nominal owner, proprietor, director, or supervisor of a practice as a guise or subterfuge to enable such dental hygienist to engage in the practice of dentistry or dental hygiene or who renders dental hygiene services, except educational services, directly or indirectly on or for members of the public other than as an employee or independent contractor supervised by a licensed dentist that have not been delegated by a licensed dentist or that are not performed under the supervision of a licensed dentist as provided by rule shall be deemed to be practicing illegally.~~

**10.4(1)** The unauthorized practice of dental hygiene means allowing a person not licensed in dentistry or dental hygiene to perform dental hygiene services authorized in Iowa Code section 153.15 and rule 650—10.3(153).

**10.4(2)** The unauthorized practice of dental hygiene also means the performance of services by a dental hygienist that exceeds the scope of practice granted in Iowa Code section 153.15.

~~**10.4(3)** A dental hygienist shall not provide services, except for educational services, independent from the supervision of a dentist nor shall a dental hygienist establish or maintain an office or other~~

~~workplace separate or independent from the office or other workplace in which the supervision of a dentist is provided.~~

~~10.4(4)~~ **10.4(3)** Students enrolled in dental hygiene programs. Students enrolled in an accredited dental hygiene program are not considered to be engaged in the unlawful practice of dental hygiene provided that such practice is in connection with their regular course of instruction and meets the following:

- a. The practice of clinical skills on peers enrolled in the same program must be under the direct supervision of a program instructor with an active Iowa dental hygiene license, Iowa faculty permit, or Iowa dental license;
- b. The practice of clinical skills on members of the public must be under the general supervision of a dentist with an active Iowa dental license;
- c. The practice of clinical skills involving the administration or monitoring of nitrous oxide or the administration of local anesthesia must be under the direct supervision of a dentist with an active Iowa dental license.

This rule is intended to implement Iowa Code sections 147.10, 147.57 and 153.15.

ITEM 2. Amend rule 650—10.5(153) as follows:

**650—10.5(153) Public health supervision allowed.** A dentist who meets the requirements of this rule may provide public health supervision to a dental hygienist if the dentist has an active Iowa license and the services are provided in public health settings.

**10.5(1) Public health settings defined.** For the purposes of this rule, public health settings are limited to schools; Head Start programs; programs affiliated with the early childhood Iowa (ECI) initiative authorized by Iowa Code chapter 256I; child care centers (excluding home-based child care centers); federally qualified health centers; public health dental vans; free clinics; nonprofit community health centers; nursing facilities; and federal, state, or local public health programs.

**10.5(2) Public health supervision defined.** “Public health supervision” means all of the following:

- a. The dentist authorizes and delegates the services provided by a dental hygienist to a patient in a public health setting, with the exception that hygiene services may be rendered without the patient’s first being examined by a licensed dentist;
- b. The dentist is not required to provide future dental treatment to patients served under public health supervision;
- c. The dentist and the dental hygienist have entered into a written supervision agreement that details the responsibilities of each licensee, as specified in subrule 10.5(3); and
- d. The dental hygienist has an active Iowa license with a minimum of ~~three years~~ one year of clinical practice experience.

**10.5(3) Licensee responsibilities.** When working together in a public health supervision relationship, a dentist and dental hygienist shall enter into a written agreement that specifies the following responsibilities.

- a. The dentist providing public health supervision must:
  - (1) Be available to provide communication and consultation with the dental hygienist;
  - (2) Have age- and procedure-specific standing orders for the performance of dental hygiene services. Those standing orders must include consideration for medically compromised patients and medical conditions for which a dental evaluation must occur prior to the provision of dental hygiene services;
  - (3) Specify a period of time in which an examination by a dentist must occur prior to providing further hygiene services. However, this examination requirement does not apply to educational services, assessments, screenings, and fluoride if specified in the supervision agreement; ~~and~~
  - (4) Specify the location or locations where the hygiene services will be provided under public health supervision; ~~and~~
  - (5) Complete board-approved training on silver diamine fluoride if the supervision agreement permits the use of silver diamine fluoride. The supervision agreement must specify guidelines for use of silver diamine fluoride and must follow board-approved protocols.

b. A dental hygienist providing services under public health supervision may provide assessments; screenings; data collection; and educational, therapeutic, preventive, and diagnostic services as defined in rule 650—10.3(153), except for the administration of local anesthesia or nitrous oxide inhalation analgesia, and must:

- (1) Maintain contact and communication with the dentist providing public health supervision;
- (2) Practice according to age- and procedure-specific standing orders as directed by the supervising dentist, unless otherwise directed by the dentist for a specific patient;
- (3) Provide to the patient, parent, or guardian a written plan for referral to a dentist and assessment of further dental treatment needs;
- (4) Have each patient sign a consent form that notifies the patient that the services that will be received do not take the place of regular dental checkups at a dental office and are meant for people who otherwise would not have access to services; ~~and~~
- (5) Specify a procedure for creating and maintaining dental records for the patients that are treated by the dental hygienist, including where these records are to be located; ~~and~~
- (6) Complete board-approved training on silver diamine fluoride if the supervision agreement permits the use of silver diamine fluoride. The supervision agreement must specify guidelines for use of silver diamine fluoride and must follow board-approved protocols.

c. The written agreement for public health supervision must be maintained by the dentist and the dental hygienist and must be made available to the board upon request. The dentist and dental hygienist must review the agreement at least biennially.

d. A copy of the written agreement for public health supervision shall be filed with the Bureau of Oral and Health Delivery Systems, Iowa Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319.

**10.5(4) Reporting requirements.** Each dental hygienist who has rendered services under public health supervision must complete a summary report at the completion of a program or, in the case of an ongoing program, at least annually. The report shall be filed with the bureau of oral and health delivery systems of the Iowa department of public health on forms provided by the department and shall include information related to the number of patients seen and services provided so that the department may assess the impact of the program. The department will provide summary reports to the board on an annual basis.

This rule is intended to implement Iowa Code section 153.15.

ITEM 3. Amend rule 650—10.6(147,153,272C) as follows:

**650—10.6(147,153,272C) Other requirements.**

**10.6(1) Change of ~~address or~~ name.** Each person licensed or registered by the board must notify the board, by written correspondence ~~or through the board's online system~~, of a change of legal name ~~or address~~ within 60 days of such change. Proof of a legal name change, such as a ~~notarized~~ copy of a notarized letter, marriage certificate, or other legal document establishing the change must accompany the request for a name change.

**10.6(2) Change of address.** Each person licensed or registered by the board must notify the board within 60 days, through the board's online system, of changes in email and mailing addresses. Address changes shall be submitted as follows:

a. Primary mailing address. Licensees or registrants shall designate a primary mailing address. The primary mailing address may be a designated work or home address.

b. Practice locations. Licensees or registrants shall report addresses for all practice locations. Practice locations include full-time and part-time practice locations.

c. Email address. Each licensee or registrant shall report, when available, an email address for the purpose of electronic communications from the board.

**~~10.6(2)~~ 10.6(3) Child and dependent adult abuse training.** Licensees or registrants who regularly examine, attend, counsel or treat children or adults in Iowa must obtain mandatory training in child and dependent adult abuse identification and reporting within six months of initial employment and subsequently every five years in accordance with 650—subrule 25.2(9).

~~10.6(3)~~ **10.6(4)** *Reporting requirements.* Each licensee and registrant shall be responsible for reporting to the board, within 30 days, any of the following:

*a.* Every adverse judgment in a professional malpractice action to which the licensee or registrant was a party.

*b.* Every settlement of a claim against the licensee or registrant alleging malpractice.

*c.* Any license or registration revocation, suspension or other disciplinary action taken by a licensing authority of another state, territory or country within 30 days of the final action by the licensing authority.

This rule is intended to implement Iowa Code sections 147.9, 232.69, 235B.16 and 272C.9.

ITEM 4. Amend subrule 16.2(2) as follows:

**16.2(2)** A dental examination must be conducted and a medical history taken before a dentist initially prescribes, administers, or dispenses medication to a patient, except for patients who receive fluoride or silver diamine fluoride dispensed under protocols approved by the ~~dental health~~ bureau of oral and health delivery systems of the department of public health. The examination must focus on the patient's dental problems, and the resulting diagnosis must relate to the patient's specific complaint. The patient's dental record must contain written evidence of the examination and medical history.